

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

DEC 19 2006

FILED
CLERK'S OFFICE**DOCKET NO. 1596****BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE ZYPREXA PRODUCTS LIABILITY LITIGATION***Mary Mallard v. Eli Lilly & Co., et al.*, M.D. Alabama, C.A. No. 2:06-481*Patricia Segrest v. Eli Lilly & Co., et al.*, M.D. Alabama, C.A. No. 2:06-542*Charles O. Crowder v. Eli Lilly & Co., et al.*, N.D. Alabama, C.A. No. 2:06-1321

- Dec 16 885 ED/NY

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.
FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL,
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL****TRANSFER ORDER**

Before the Panel are motions brought, respectively, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in two Middle District of Alabama actions and one Northern District of Alabama action. These plaintiffs ask the Panel to vacate its orders conditionally transferring the actions to the Eastern District of New York for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. Common defendant Eli Lilly and Co. opposes the motions to vacate and urges inclusion of the actions in the MDL-1596 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these three actions involve common questions of fact with the actions in this litigation previously transferred to the Eastern District of New York, and that transfer of these actions to the Eastern District of New York for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel further finds that transfer of these actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the Eastern District of New York was a proper Section 1407 forum for actions involving claims of liability related to the prescription drug Zyprexa. *See In re Zyprexa Products Liability Litigation*, 314 F.Supp.2d 1380 (J.P.M.L. 2004). Plaintiffs' motions for remand to state court can be presented to and decided by the transferee court. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of New York and, with the consent of that court, assigned to the Honorable Jack

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B. Weinstein for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

A handwritten signature in black ink, appearing to read "Wm. Terrell Hodges", written over a horizontal line.

Wm. Terrell Hodges
Chairman

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

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December 19, 2006

Robert C. Heinemann, Clerk
130 United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201-1818

Re: MDL-1596 -- In re Zyprexa Products Liability Litigation

Mary Mallard v. Eli Lilly & Co., et al., M.D. Alabama, C.A. No. 2:06-481

Patricia Segrest v. Eli Lilly & Co., et al., M.D. Alabama, C.A. No. 2:06-542

Charles O. Crowder v. Eli Lilly & Co., et al., N.D. Alabama, C.A. No. 2:06-1321

Dear Mr. Heinemann:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By: 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Jack B. Weinstein
Transferor Judges: Judge William M. Acker, Jr.; Judge W. Harold Albritton, III
Transferor Clerks: Debra P. Hackett; Perry D. Mathis

JPML Form 29

**INVOLVED COUNSEL LIST
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IN RE ZYPREXA PRODUCTS LIABILITY LITIGATION**

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